

STATE OF INDIANA- COUNTY OF LAPORTE
IN THE LAPORTE CIRCUIT AND SUPERIOR COURTS

**Notice of Proposed Amendment of Local Rules for the Courts of Record
of LaPorte County
July 28, 2010**

In accordance with the Indiana Court Rules, the LaPorte Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rules for the courts of record of LaPorte County, **effective January 1, 2011**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for some local rules pursuant to Admin. R. 1 (E).

In accordance with Trial Rule 81 (B), the time period for the bar and the public to comment shall begin on July 30, 2010, and shall close on August 30, 2010. The proposed amendments to the rule will be adopted, modified or rejected before September 31, 2010, and the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than October 1, 2010.

Comments by the bar and the public should be made in writing and mailed to:

Hon. Thomas J. Alevizos, Judge of the LaPorte Circuit Court, Attn: Public Comment on Local Rules, LaPorte County Courthouse, 813 Lincolnway, LaPorte, Indiana.

A paper copy of the proposed amended local rules will be made available for viewing in the office of the Clerk of LaPorte County, LaPorte County Courthouse, 813 Lincolnway, LaPorte, Indiana during normal business hours. Persons with Internet access may view the proposed amended local at the following websites:

<http://www.LaPortecounty.org/clerk> or <http://www.in.gov/judiciary/rules/local>

_____/S/
Thomas J. Alevizos, Judge
LaPorte Circuit Court

_____/S/
Richard Stalbrink, Judge
LaPorte Superior Court #2

_____/S/
William J. Boklund, Judge
LaPorte Superior Court #4

_____/S/
Kathleen B. Lang, Judge
LaPorte Superior Court #1

_____/S/
Jennifer Koethe, Judge
LaPorte Superior Court #3

LR46 – TR 79 (H) – 1 Selection of Special Judges in Civil Cases

(1) In cases arising from a change of judge, in the event a Special Judge does not accept appointment under Sections (D), (E) or (F) or TR 79, **or in cases arising from the disqualification or recusal of a judge**, the appointment of a Special Judge for that case shall be made as follows, **subject to section (2) of this rule**:

1. **(A)** The presiding Judge in the court where the case is filed shall name a new panel of three (3) Judges from the Judge pool;

~~(a)~~ **(i)** Judge pool shall include all presiding Judges, Senior Judges, Magistrates and Retired Judges in Current Judge Pool:

Circuit Court:

Superior Court #1:

Superior Court #2:

Superior Court #3:

Superior Court #4:

Presiding Magistrates

Presiding Senior Judges

~~(b)~~ **(ii)** New panel shall not include the names of and Judges named on the first panel in the case.

2. **(B)** Striking from the new panel shall be made as indicated in TR 79 (F)(2), (3), as follows:

~~(a)~~ **(i)** Striking From Panel. In an adversary proceeding, each party shall be entitled to strike one judge from the panel. In an ex parte proceeding, the sole party shall be entitled to strike one judge from the panel.

~~(b)~~ **(ii)** The moving party shall be entitled to strike first. The parties shall have not less than seven (7) days from the day the clerk mails the panel to the parties to strike as the court may allow.

~~(c)~~ **(iii)** Failure to Strike. If the moving party fails to timely strike, the judge who submitted the panel shall resume jurisdiction of the case. If the case is an ex parte proceeding or if a non-moving party fails to timely strike, the Clerk of the Circuit Court shall make the final strike.

~~(d)~~ **(iv)** No Moving Party. In the event there is no moving party, the plaintiff/petitioner shall strike first from the panel appointed by the Court.

3. **C.** Appointment of Special Judge. The judge who submitted the panel shall appoint the Judge remaining on the panel as special judge in the case.

- (a) (i) A person appointed to serve as Special Judge under this Local Rule shall accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under this rule, or excused from service by the Indiana Supreme Court. The order of appointment under the local rule shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.
- (b) (ii) If the appointed Judge is disqualified, ineligible or excused pursuant to (a) above, then the presiding Judge of the Court in which the case is filed will then name a Judge from the pool; that Judge so named by the presiding Judge shall then appoint a Special Judge for the case from the remaining Judges in the pool who have not been previously named to the panel.

~~In cases arising from the disqualification or recusal of a judge, a special judge shall be selected as provided in TR 79 (D) and (E). Should the application of (D) and (E) not result in the selection of a special judge, then a special judge shall be selected by the clerk, in rotation, from the next position on the following list:~~

1. ~~LaPorte Circuit Court~~
2. ~~LaPorte Superior Court #1~~
3. ~~LaPorte Superior Court #2~~
4. ~~LaPorte Superior Court #3~~
5. ~~LaPorte Superior Court #4~~
6. ~~Presiding Magistrates~~

~~The judge who was disqualified or recused shall appoint the Judge selected from the list by the clerk as special judge in the case.~~

(2) In cases arising from the disqualification or recusal of a judge in a juvenile matter, the juvenile magistrate of the LaPorte Circuit Court shall be appointed Special Judge.

- (3)** A person appointed to serve as Special Judge under this Local Rule shall accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under this rule, or excused from service by the Indiana Supreme Court. The order of appointment under the local rule shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.

LR 46 – CR 2.2 – 2 Assignment of Judges in Criminal Cases

Pursuant to Criminal Rule 2.2, Assignment of Cases, and in conjunction with the weighted caseload measures, the Judge of the LaPorte Circuit and the LaPorte Superior Courts No. 1, 2, 3, and 4, adopt the following amendments to Local Rule 1 for the assignment of criminal actions filed in LaPorte County:

(1) The assignment of all felony and misdemeanor cases filed in LaPorte County shall be pursuant to the line of demarcation which runs east and west as follows: The line of demarcation commencing at the LaPorte County line follows I-94 east to the intersection of Highway #20 and #35; ~~east to the intersection of Highway #20 and State Road #2~~ **continues east on Highway #20 to the intersection of Highway # 20 & Highway # 39; east to the county line and then follows Highway #39 North to the Indiana state line. All area north and west of the line of demarcation will be in the jurisdiction of Michigan city. All area east and south of the line of demarcation will be in the jurisdiction of LaPorte.**

1. **(A)** All felonies occurring south **and east** of the line of demarcation are assigned to LaPorte Circuit Court.
2. **(B)** All felonies, except for D felonies, occurring north **and west** of the line of demarcation ~~are assigned to LaPorte Superior Court No. 1.~~ **will be assigned by the Clerk of the Court under a blind allocation system either to LaPorte Superior Court No. 1 or LaPorte Superior Court No. 2.**
3. **(C)** All misdemeanors occurring to the south of the line of demarcation are assigned to LaPorte Superior Court No. 3
4. **(D)** All D felonies and misdemeanors occurring north **and west** of the line of demarcation are assigned to LaPorte Superior Court No. 4.
5. **(E)** Murder and Class A, B and C felonies and misdemeanors arising out of the State Penal Institutions in LaPorte County are assigned to the LaPorte Superior Court No. 2

If the State of Indiana dismisses a criminal action and thereafter re-files the same charge, said charge must be re-filed per the “lines of demarcation”.

(2) In the event a change of Judge, pursuant to Criminal Rule 13(c) is granted, the assignment of a successor Judge shall be as follows:

1. **(A)** Upon a change of venue from the Judge of LaPorte Circuit Court, the Judge of LaPorte Superior Court 1 shall become the successor Judge and
2. **(B)** Upon a change of venue from the Judge of LaPorte Superior Court No. 1, the Judge of LaPorte Circuit Court shall become the successor Judge.

3. ~~(C)~~ Upon a change of venue from the Judge of LaPorte Superior Court No. 2, the Judge of Superior Court No. 4 shall become the successor Judge and vice versa.
4. ~~(D)~~ Upon a change of venue from the Judge of Superior Court No. 3, the Judge of the LaPorte Circuit Court shall become the successor Judge.

(3) In cases arising from the disqualification or recusal of a judge in a juvenile matter, the juvenile magistrate of the LaPorte Circuit Court shall be appointed Special Judge, with the rotation outlined in Section 2 to be followed thereafter.

LR46 – AR 15 – 3 Court Reporting Services

Section One. Definitions. The following definitions shall apply under this local rule:

- (1) *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter and shall include, but not be limited to, actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but are hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e., Sunday through Saturday, Wednesday through Tuesday, and Friday through Thursday.
- (10) *Court* means the particular court for which the court reporter performs services.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and to be used on behalf of a litigant who has been declared indigent by the court.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is to be used on behalf of a litigant who has been declared indigent by the court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.
- (14) *Expedited transcripts* are those which are requested to be completed within three (3) days.

Section Two. Salaries and per Page Fees for Non-Appeal Transcripts.

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court.
- (2) The maximum per page fee a court reporter may charge for the preparation of a non-appeal transcript shall be a regular page rate of \$3.50 (This includes county and state indigent transcripts.)
- (3) The maximum per page fee a court reporter may charge for a copy of a transcript shall be \$1.50.
- (4) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
- (5) A minimum fee of \$35.00 shall be required for any transcript ordered. (This includes county and state indigent transcripts.)

Section Three. Private Practice

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript and the court reporter desires to utilize the court's equipment, work space and supplies, and the Court agrees to the use of the court equipment for such purpose, the Court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - (a) the reasonable fair market rate for the use of equipment, work space and supplies;
 - (b) the method by which records are to be kept for the use of equipment, work space and supplies, and
 - (c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- 2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

Section Four. Appeal Transcripts.

- (1) The maximum per page fee a court reporter may charge for the preparation of an appeal transcript shall be a regular page rate of \$3.75; and an expedited rate of double the regular page rate. (This includes county and state indigent transcripts.)
- (2) The maximum per page fee a court reporter may charge for the preparation of the Table of Contents, Exhibit Volume, Exhibit Table of Contents and Index shall be a regular page rate of \$3.75; and an expedited rate of double the regular page rate. (This includes county and state indigent transcripts.)
- (3) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for time spent binding the transcript and the exhibit binders.
- (4) The Clerk of the Court shall maintain and be responsible for the original hard copy of final transcripts required to be prepared for purposes of taking an appeal in accordance with Rule 12 of the Indiana Rules of Appellate Procedure.

Section Five. Retroactive Application of Rule.

- (1) This local court rule shall be retroactive to July 2, 2001, for any unbilled services, subject to approval by the Supreme Court of the State of Indiana.

Section Six

- (1) An additional 50 cents shall be charged per page for the production of transcripts.**
- (2) This charge is to be payable directly to the county, for deposit in the FUND.**
- (3) This charge is not to be considered in calculating the relevant minimum and maximum charges; it is charged on the basis of county equipment being used in the recording and/or production of the documents concerned, and the FUND in which it is deposited is intended to maintain this equipment.**

LR 46 – AR 1 (E) –4 Caseload Allocations

This matter came before the judges of the courts of record of this county pursuant to the “Order for Development of Local Caseload Plans” issued by the Indiana Supreme Court on the 16th day of July, 1999, in Indianapolis, Indiana, and the judge of this county having met and considered that order, together with the data and advisory materials related thereto provided by the Division of State Court Administration of the Indiana Supreme Court and those particular local factors that pertain to the efficient administration of justice, and being duly advised in the premises, now issue the following findings and rules pertaining to local caseloads of the courts of this county:

- (1) Based on the 2007 statistical data provided by the Division of State Court Administration of the Indiana Supreme Court, the average weighted caseload utilization for LaPorte County Courts is 134%.
- (2) Consistent with the stated policy and purposes of the Indiana Supreme Court’s “Order for Development of Local Caseload Plans” issued July 16, 1999, the following considerations bear import to the effective use of judicial resources and the effective access of LaPorte County citizens to the Courts:

a) LaPorte County’s five courts and their companion clerk’s offices are located in three separate county complexes: LaPorte Circuit Court at the Circuit Courthouse [in LaPorte, Indiana], LaPorte Superior Court 3 located in the County Government Complex [in LaPorte, Indiana]; and LaPorte Superior Courts 1, 2 and 4 located in the Superior Courthouse [in Michigan City, Indiana]. A distance of approximately thirteen miles separates Michigan City from LaPorte; four separate clerk’s offices service the five courts, which, in terms of square mileage, serve the second largest county in the State of Indiana. That geographical configuration has attendant considerations of administrative necessity for the allocation of the county’s personnel, financial, and space resources; for example, the maintenance of court records in four separate clerk’s offices and assignment of the clerk’s personnel, the offices of both the Deputy Prosecutors and Public Defenders and assignment of their personnel, the offices of the courts’ respective Probation Departments, and the warrant divisions of the Sheriff’s Department are each located and based on access to

particular courts on a geographical basis; likewise, those geographic considerations underlie LaPorte County's Local Court rule for the assignment of criminal cases, which provides for the distribution of cases on the basis of demographic considerations and the nature of the charge. A wholesale restructuring of caseloads to provide for specialization of courts by case type is precluded by considerations of space, personnel allocation, and geography; fortunately, the present general distribution of cases generally has served the courts, its support services, and the citizens of LaPorte County in an effective fashion.

b) Complicating the configuration of the courts and matters of caseload distribution is the additional workload created by the various correctional facilities located in LaPorte County that house approximately 7,000 offenders and generate a criminal caseload and unique *pro se* civil litigation that defies the weighted case-load study assignments of time necessary to process particular case-types. *See* Judicial Administration Committee, Judicial Conference of Indiana, *Weighted Caseload Study for Indiana's Trial Court Judicial Officers*, P.25 (December, 1996).

c) LaPorte County should benefit from specialization in the handling of all Children in Need of Services and Delinquency proceedings by a single judicial officer; that caseload, with its attendant demands for interaction with a variety of social service agencies and its administration of the Juvenile Detention Center, as well as the distinct need for those cases to be processed in an expeditious fashion and reviewed on a continuing basis, warrant the singular focus of one judicial officer;

d) Similarly, the need for specialization in family issues and the existing "high volume" caseloads of LaPorte Superior Courts 3 and 4 warrant the restructuring of existing caseloads, albeit with consideration for the demographic and geographic considerations discussed herein.

e) Indiana Code 33-5-31.1-11 embodies recognition of geographically-based caseloads and specialization; the legislature provided therein that Superior Court 3, which sits in LaPorte, and Superior Court 4, which sits in Michigan City, each maintain standard small claims and misdemeanor divisions.

f) Currently, LaPorte County's judiciary benefits from the General Assembly's addition of two non-juvenile Magistrates to its judicial workforce; the existence of those Magistrates is recognized as the most useful tool in apportioning caseloads equitably amongst the courts.

g) The resources of three Senior Judges provide a potential and additional vehicle for accomplishing the policy and purposes of the Supreme Court's "Order for Development of Local Caseload Plans."

h) Indiana Code 33-5-31.1-9 and 10 provide additional vehicles for the reduction in disparity of caseloads; the former statute provides for the consensual transfer of cases between courts, while the latter statute provides for the judges of the respective courts to sit as judge in another court with the consent of the respective judges;

i) The geographically-based distribution of criminal cases and filing patterns in civil caseloads warrant that a semi-annual review of caseload disparity be conducted by LaPorte County judges and adjustments made as needed for the efficient administration of justice.

j) To date, LaPorte County civil cases have been filed in the court of the plaintiff/petitioners' choosing. Until recently, this has not created a disparity in caseloads. However, over the last three to four years the Courts have seen a change in filing patters evidencing forum shopping. Due to this forum shopping, previous caseload allocation assumptions and plans are now inaccurate and inadequate. In order for the LaPorte County Case Allocation Plan to have any degree of certainty, implementation of a blind draw allocation system as to LaPorte Superior Court No. 1 and LaPorte Superior Court No. 2 for certain case filing is necessary. If evidence of forum shopping persists, then the blind draw allocation system will be extended to encompass the LaPorte Circuit Court, Superior Court No. 3 and Superior Court No. 4.

(3) In line with the above considerations, the following regulations are hereby established:

Aa) Upon approval of this rule, one non-juvenile Magistrate shall be assigned completely to Superior Court 4. The other non-juvenile Magistrate shall serve LaPorte Circuit Court for four days of each week and shall serve LaPorte Superior Court 3 for one day each week. (*A periodic review of caseloads by the judicial officers of this county may adjust the assignments of these Magistrates as new caseload data may demand.)

Bb) **All juvenile matters will be assigned to the LaPorte Circuit Court.**
The caseload of Juvenile Magistrate shall include all Delinquency and Child in Need of Services proceedings filed in LaPorte County, as well as those cases otherwise assigned to her by the Judge of the LaPorte Circuit Court.

Cc) The caseloads of LaPorte Circuit Court, Superior Court 1, and Superior Court 2 shall include all new civil filings for **probate**, protective orders, dissolutions of marriage, paternity, custody, and/or support; the Clerk of LaPorte County courts and the deputy clerks are directed to inform litigants of the provisions set forth herein; given that the various courts of LaPorte County are, by statute, courts of general jurisdiction, it is recognized that the clerk is not empowered to prohibit the filing of a particular type of case in a particular court; in the event a filing occurs that is not in compliance with the provisions set forth herein, the judge of LaPorte Superior Court 3 or 4 that receives that filing shall cause it to be transferred to an appropriate court in accordance with the provision set forth herein pursuant to Indiana Code 33-5-31.1-9.

d) Cases filed in Michigan City shall be assigned by the Clerk of the Court among Superior Court No. 1, Superior Court No. 2 and Superior Court No. 4 as follows:

(1) All new filings for domestic relations matters, reciprocal support, mental health, adoption, adoption histories, probate, guardianship, trusts and protective orders shall be assigned under a blind allocation system exclusively to Superior Court No. 1 and Superior Court No. 2

(2) All new filings for civil plenary and civil torts shall be assigned under a blind allocation system to Superior Courts No. 1, Superior Court No. 2 and Superior Courts No. 4.

(3) All new filings for civil collection and small claims shall be assigned to Superior Court No. 4.

⇒ **e)** Efforts to reduce caseload disparity shall include requests to the Indiana Supreme Court for the appointment of present Senior Judges to serve various courts of LaPorte County, as opposed to a singular designated court.

⇒ **f)** The judicial officers of this county shall meet on a semi-annual basis to review the issue of caseload disparity and shall continue in the endeavor to accomplish not only a statistical parity in the respective caseloads of the courts, but, moreover, a caseload distribution that enhances citizen access to the courts in a timely and expeditious manner and recognizes the particular geographic and demographic needs of the populace.

~~*Note: The courts have already re-assigned Magistrates effective 01/01/08 to yield the following results:~~

~~COURT NEED HAVE UTILIZATION~~

~~Circuit Ct. 3.29 3.00 = 1.10~~

~~Sup.Ct. 1 1.31 0.25 = 1.05~~

~~Sup.Ct. 2 1.38 1.00 = 1.38~~

~~Sup.Ct. 3 1.75 1.00 = 1.75~~

~~Sup.Ct. 4 2.98 1.75 = 1.71~~

~~Under the proposed new allocation that would be effective 01/01/09 the following results would be anticipated:~~

~~COURT NEED HAVE UTILIZATION~~

~~Circuit Ct. 3.29 2.80 = 1.18~~

~~Sup.Ct. 1 1.31 1.00 = 1.31~~

~~Sup.Ct. 2 1.38 1.00 = 1.38~~

~~Sup.Ct. 3 1.75 1.20 = 1.46~~

~~Sup.Ct. 4 2.98 2.00 = 1.49~~

~~These results would result in a maximum variance within the .40 parameters desired.~~